

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

CHARLES C. KRETEK, as Personal  
Representative of Christopher Aparicio,  
Deceased,

Plaintiff,

vs.

Civ. No. 11-676 KG/GBW

BOARD OF COMMISSIONERS  
OF LUNA COUNTY, JOHN KREHBIEL,  
JOSH ELFORD, JONATHAN CHAVEZ,  
JOHN ROBERT MCGRAEL, and  
YOLANDA EDWARDS,

Defendants.

ORDER TO SHOW CAUSE

This matter comes before the Court upon the following filings by the parties:

1. Plaintiff's Trial Exhibit List (Doc. 255), filed February 5, 2014;
2. Plaintiff's Proposed Statement of the Case (Doc. 284), filed February 12, 2014;
3. Plaintiff's Proposed Jury Instructions and Verdict Forms (Doc. 285), filed February 12, 2014;
4. Defendants' Trial Exhibit List (Doc. 281), filed February 11, 2014;
5. Defendants' Proposed Statement of the Case (Doc. 283), filed February 11, 2014; and
6. Defendants' Proposed Jury Instructions and Verdict Forms (Doc. 278), filed February 11, 2014.

As an initial matter the Court finds that Plaintiff filed Plaintiff's Proposed Statement of the Case and Plaintiff's Proposed Jury Instructions a day late. The Court had ordered at the

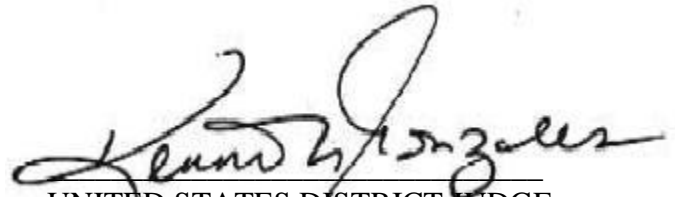
January 30, 2014, pretrial conference that the parties file a joint statement of the case and proposed jury instructions by February 11, 2014. *See* Transcript (Doc. 277) at 8.

The Court also finds that the parties have not complied with the Amended Pretrial Order (Doc. 235) or the Court's Pretrial Instructions for Civil Cases found at its website. First, the parties did not file either a consolidated exhibit list or a contested exhibit list as required by the Amended Pretrial Order at 24. Instead, the parties filed separate exhibit lists suggesting that they did not meet and confer over the trial exhibits as the Amended Pretrial also requires. Second, the parties did not file a joint statement of the case as required by both the Amended Pretrial Order at 27 and the Court's Pretrial Instructions for Civil Cases at 2. Third, the parties did not file a mutually accepted set of jury instructions nor did they "specify the date in which they met and conferred on the jury instructions." *See* Amended Pretrial Order at 26. *See also* the Court's Pretrial Instructions for Civil Cases at 5 (**"PARTIES SHALL SUBMIT A SET OF MUTUALLY ACCEPTABLE JURY INSTRUCTIONS ON THE SUBSTANTIVE CLAIMS, OR BE PREPARED TO SUBMIT A LEGAL BASIS FOR THEIR OBJECTIONS TO EACH INSTRUCTION ON WHICH THEY DO NOT AGREE."**).

As a consequence of these violations of the Amended Pretrial Order and failure to follow the Court's Pretrial Instructions for Civil Cases, the Court orders that counsel appear in person at the Mimbres Courtroom in Las Cruces, New Mexico, on Tuesday, February 18, 2014, at 8:00 a.m., to explain whether and to what extent they have complied with the Amended Pretrial Order and the Court's Pretrial Instructions for Civil Cases, including the meet and confer requirements, as of February 12, 2014. Plaintiff's counsel must also show good cause for the untimely filing of Plaintiff's Proposed Statement of the Case and Plaintiff's Proposed Jury Instructions. If counsel comply fully with the Amended Pretrial Order and the Court's Pretrial Instructions for Civil

Cases no later than noon on February 14, 2014, and (1) certify, in writing, that they have in good faith complied with the meet and confer requirements, and (2) file consolidated or contested exhibit lists, a joint statement of the case, and a set of mutually acceptable jury instructions, then the Court will vacate the February 18, 2014, show cause hearing.

IT IS SO ORDERED.



UNITED STATES DISTRICT JUDGE